

REMARKS

This application has been carefully reviewed in light of the Examiner's Office Action dated September 9, 2004. Claims 1, 8-10, 14, and 23 have been amended, claim 7 has been withdrawn and claims 24-36 are cancelled without prejudice, and claims 37-49 have been added. Reconsideration
5 and full allowance are respectfully requested.

In the Office Action, the Examiner rejected claim 8 under 37 U.S.C. §112. Claim 8 has been amended to overcome this rejection.

In the Office Action, the Examiner also rejected claims 1-4, 6, 8-10 and 21-23 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,894,841 to Voges (hereafter "Voges").

10 This rejection is respectfully traversed.

The respiratory delivery system of independent claim 1 includes an airflow inlet, an airflow outlet and at least one airflow passage that extends between the airflow inlet and airflow outlet. The system also includes at least one ejection actuator that is adapted to at least assist in discharging a substance into an airflow through the system. Finally, the system includes at least one airflow
15 regulation assembly that is adapted to adjust a size of a passage through which airflow is directed to achieve a substantially constant airflow rate through the passage. The airflow regulation assembly maintains the substantially constant airflow rate independent of the magnitude of an inhalation by a user utilizing the system. Stated otherwise, the airflow regulation assembly is operative to alter the size of the passage in order to maintain a desired airflow rate through the passage irrespective of an
20 inhalation force provided by a user.

The Examiner took the position in the Office Action that Voges discloses an airflow regulation assembly, referring to column 6, lines 17-24. Applicant respectfully disagrees and submits that Voges fails to disclose the system of claim 1. Applicant submits that while Voges provides a dispenser having inlet port 7, an outlet port 5, and a passage extending therebetween, Voges provides no assembly for adjusting the size of any portion of the airflow passage through the dispenser. In the case of the Examiner's reference to column 6, lines 17-24, the element numbered 14 is an ejection device that is adapted to issue droplets from orifices 15 into the inhalation airflow. See Column 5 line 57- Column 6 line 57. Voges provides no assembly or structure that is adapted to adjust the size of any portion of the airflow passage through the dispenser. For instance, the dispenser of Voges contains no moving parts that would allow adjusting the size of the airflow passage between the inlet port and outlet port. Accordingly, Voges provides no structure or assembly that is operative to maintain a substantially constant airflow through the airflow passage that is independent of a magnitude of a user's inhalation. Voges simply fails to disclose any airflow regulation assembly as claimed by independent claim 1. Accordingly, Applicant respectfully request that this rejection be withdrawn and that claim 1 and its dependent claims be allowed.

Based on the foregoing, claim 1 is in condition for allowance. Claims 2-23, which depend from claim 1, are thereby also in condition for allowance for the above-noted reasons. There is therefore no reason to address the Examiners position in relation to any of these dependent claims.

Applicant has added independent claims 37 and 45 for consideration by the Examiner, and which are allowable over the prior art of record.

Based upon the foregoing, Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation

would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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